

STATE PROPERTIES COMMITTEE MEETING

TUESDAY, AUGUST 19, 2008

The meeting of the State Properties Committee was called to order at 10:01 a.m. by Chairman Kevin M. Flynn. Other members present were John Ryan the Rhode Island Department of Administration; Richard Woolley representing the Rhode Island Department of Attorney General; Robert W. Kay and John A. Pagliarini, Jr., Public Members. Others in attendance were Charles Donovan from the Rhode Island House of Representatives; Lisa Primiano and John Faltus from the Rhode Island Department of Environmental Management; Meredith Holderbaum from the Rhode Island Senate Fiscal Office; Romeo Mendes from the Rhode Island Water Resources Board; Thomas Andolfo from Andolfo Appraisal Associates, Inc.

Chairman Flynn noted for the record that the State Properties Committee did have a quorum present. Chairman Flynn also indicated that Item A is deferred to a future meeting of the State Properties Committee.

A motion was made to approve the minutes of the Special Meeting of the State Properties Committee held on July 29, 2008, by Mr. Pagliarini and seconded by Mr. Kay.

Passed Unanimously

The approval of the regular minutes of the State Properties Committing meeting held on August 5, 2008, is deferred to the September 2, 2008 meeting of the State Properties Committee.

The next regular meeting of the State Properties Committee will be held on Tuesday, September 2, 2008, at 10:00 a.m.

ITEM A – Department of Administration – A request for approval of and signatures on a Grant of Easement by and between the Department of Administration and The Narragansett Electric Company for access onto State-owned property located on the northerly side of Danielson Pike in the Town of Scituate. This item was deferred to a future meeting of the State Properties Committee at the request of the Department of Administration.

ITEM B – Water Resources Board – A request was made for approval of and signatures on a Lease Agreement by and between the Water Resources Board and Greenwich Village Nursery and Kindergarten, LTD. for the premises located at 227 Nooseneck Hill Road in the Town of West Greenwich. Chairman Flynn stated that this item was previously before the State Properties Committee; however, was deferred on two occasions. First to accommodate the request of Mr. Pagliarini that he be allowed to review the appraisal of the property conducted by Thomas Andolfo and later to accommodate Mr. Pagliarini's request that Mr. Andolfo appear before the State Properties Committee to explain the methodology utilized to determine the fair market rental value of the subject property. Mr. Mendes explained that the Water Resources Board attempted to enter into a Lease Agreement with the applicant, Greenwich Nursery and Kindergarten, LTD., based upon Andolfo Appraisal Associates' appraisal of the subject property, which established a rental value of

\$900.00 per month. Mr. Mendes indicated that the subject property is in a remote area removed from the highly commercial area located to the north. Mr. Mendes indicated that the tenants' attorney argued that he and his client consider the assessed rental fee of \$900 per month to be too high and suggested that the Water Resources Board consider lowering the amount based upon the many improvements to the property completed by the tenant over the past few years. However, the Water Resources Board concluded that it followed State procedure in engaging the services Andolfo Appraisal Associates, Inc., and accepting its recommendation that the property's fair market rental value is \$900 per month. Therefore, the Water Resources Board is seeking the State Properties Committee's approval and execution of said Lease Agreement. Mr. Andolfo agreed that the subject property is located to the north of Route 95 in a much less commercial area than that of the properties located to the south of Route 95. Mr. Andolfo noted that he can recall only one other property in this area known as U.S.A. Sail. Mr. Woolley indicated that he recently visited the area and noticed a water filter company located at 301 Nooseneck Hill Road; otherwise, he observed no commercial activity other than a small café appropriately named "In the Middle of No Where Café." Mr. Pagliarini asked if the single-family house, which was previously occupied by an elderly couple, is considered to be a part of the subject parcel of land. Mr. Mendes indicated that at the present time, the single-family house is not considered part of the subject property. Mr. Mendes explained that the concept is to carve out the school building and the parking

area to be leased to Greenwich Village Nursery and Kindergarten, LTD. Mr. Pagliarini noted that “at the present time” is a qualifying phrase, which indicates that Board is contemplating an alternative plan of some sort. Mr. Pagliarini questioned whether Greenwich Village Nursery and Kindergarten, LTD. will be seeking to occupy the single-family house in the future. Mr. Mendes indicated that the owner of Greenwich Village Nursery and Kindergarten, LTD. has expressed an interest in leasing the house, if it were to become available. Mr. Mendes indicated that the Board anticipates that the house will become vacant within the next few months and the Board is considering the option of amending the current Lease Agreement to include the single-family house. Mr. Mendes indicated that the fair market rental value of the single-family house has already been established. Mr. Pagliarini asked if the tenants of the single-family house were asked to vacate said premises or if they are leaving of their own volition. Mr. Mendes explained that the Water Resources Board directed the tenants to vacate the premises due to the fact that they were illegally subleasing a portion of the property to Greenwich Village Nursery and Kindergarten, LTD. without the knowledge or permission of the Water Resources Board. The tenants requested that they be granted some latitude regarding the amount of time they have to vacate the premises; the Water Resources Board granted said request. Mr. Pagliarini asked if the premises will be vacant by the end of September, 2008. Mr. Mendes stated that the Board anticipates that the premises will be vacant by the end of September; however, the husband’s current health issues may prevent them from traveling

to Florida, which is their relocation destination. Mr. Pagliarini asked if the tenants are in fact in their eighties. Mr. Mendes indicated that he believes the tenants are in their eighties. Mr. Pagliarini asked if the water supply for the subject property runs through the single-family house. Mr. Mendes stated that is correct. There is one well, which is classified as a public water supply. The reason for the public water supply classification is due to the population of the nursery school/kindergarten. Mr. Mendes explained that because of said classification, the water supply is very well protected and all standard public drinking water regulations are applicable as well as the subsequent sampling, which ensures the drinking water supply is safe. Mr. Pagliarini noted that Mr. Andolfo's appraisal references improvements made to the property by the owner of Greenwich Village Nursery and Kindergarten, LTD., inclusive of the installation of replacement windows and a fire suppression system. Mr. Pagliarini asked if Greenwich Village Nursery and Kindergarten, LTD. was reimbursed by Water Resources Board for any of the improvements made to the property. Mr. Mendes indicated that due to a lead mitigation issue, the Board's legal counsel felt it was the Board's responsible to reimburse the tenant for the replacement of the windows. Mr. Pagliarini asked if Mr. Andolfo was notified that the tenant had been reimbursed for the replacement windows prior to conducting the appraisal of the property, as said information could potentially have some bearing on his valuation of the subject property. Mr. Mendes indicated that at the time the appraisal was conducted, the Board had just received the tenant's request for

reimbursement and therefore, would not have informed Mr. Andolfo. Mr. Mendes indicated that it was approximately a month and a half after the appraisal of the property was completed that the Board determined the tenant was entitled to reimbursement. Mr. Andolfo indicated that any reimbursement to the tenant for the cost of the windows was not a factor in determining the fair market rental value of the subject property. Mr. Pagliarini asked if the Board reimbursed the tenant for the fire alarm system. Mr. Mendes stated that the Board did not reimburse the tenant for the fire alarm system. Mr. Pagliarini indicated that his previous office was located in the downtown, commercial portion of Nooseneck Hill Road. Mr. Pagliarini indicated that he occupied 2,100 square feet of office space and paid a rental fee of \$11.00 per square foot over three years ago. Mr. Pagliarini noted that at this time, the rental fee is approximately \$12.50 per square foot. Mr. Pagliarini indicated he is very concerned that the rental fee established by Mr. Andolfo's appraisal is inadequate given the amount of land and its location. Mr. Pagliarini questioned Mr. Andolfo at length regarding the method utilized to determine the fair market rental value of the subject property. Mr. Andolfo indicated that in determining the value of this particular property, one must take into account the specialized use of the property. As the property is utilized as a nursery school and kindergarten, comparable rental values are few and far between; especially given the rural nature of the property, the age of the structure and its physical characteristics. Mr. Andolfo addressed Mr. Pagliarini's comments concerning his previous office space and the rental fee assessed for said premises.

Mr. Andolfo explained for the benefit of the other members of the State Properties Committee that a few years ago while conducting appraisals of properties located adjacent to Mr. Pagliarini's previous office, he contacted Mr. Pagliarini requesting comparable rental fees within that office building. At that time, Mr. Pagliarini informed Mr. Andolfo of his specific rental fee. While conducting the appraisal of the subject property, Mr. Andolfo referred to the comparables provided by Mr. Pagliarini as well as others in the area. It is Mr. Andolfo's opinion that said rental values are not comparable to the subject property given the fact that those properties are located in a highly commercial area of Nooseneck Hill Road and have the benefit of public water service. Mr. Andolfo believes that the lack of public water and the rural nature of the school are deterrents in attracting potential students. Mr. Andolfo believes that parents of potential students are drawn to more modern facilities such as the Centre of New England. Therefore, in preparing his report, Mr. Andolfo reviewed all the daycare and nursery school rentals available to him and of the six (6) comparables referenced, the most similar facility with respect to size is the Hartford Pike Johnston. Mr. Andolfo noted that facility's fair market rental value was determined to be \$9.50 per foot and was a brand new construction at the time of the appraisal. The subject property was originally constructed as a barn in 1959 and shortly thereafter the second half of the building was constructed. Mr. Andolfo noted that the roof of the subject facility leaks, the boiler, which is the original boiler, is inadequate for the current structure and other problematic issues associated with the subject property.

Mr. Andolfo presented photographs of the subject property, which included interior and exterior views. Mr. Andolfo noted that the restroom facility is shared by both teacher and students. Mr. Pagliarini asked if the tenant is a licensed kindergarten and daycare provider. Mr. Andolfo stated that Greenwich Village Nursery and Kindergarten, LTD. is licensed by the Department of Children, Youth and Families. However, the State Building Code requires that a separate restroom be constructed for use by the students. Mr. Andolfo indicated that as the front section of the structure's electrical capacity is only 60 amps, it is inadequate and does not comply with the State's current code. Mr. Pagliarini commented that Mr. Andolfo is making a great case for prohibiting the property from being rented at any price. Mr. Andolfo pointed out that the ceilings are water stained, the floor is missing tiles and as the electrical system is inadequate; it cannot support even the most basic office equipment. The most high tech equipment on site includes a microwave oven, a small refrigerator and a printer. Mr. Andolfo reiterated that after examining the subject property and comparing it to other more newly constructed facilities, there was no choice but to make substantial adjustments to the appraised rental value. Mr. Andolfo stated that he made valid downward adjustments, to accurately reflect the present condition of the subject property. Mr. Pagliarini asked if this building is even suitable to be rented and whether it is safe for young children.

Mr. Mendes stated that in view of the recent replacement of the roof and the impending replacement of the boiler, he is confident that the subject property is suitable to be utilized as a daycare facility. Mr.

Pagliarini asked how much money the Water Resources Board has expended to refurbish this building thus far. Mr. Mendes stated that as a result of the lead mitigation issue, which required the replacement of the windows, and the replacement of the roof, the Board has invested approximately \$12,000 in the restoration of this property. Mr. Pagliarini asked how much it will cost the Board to bring the electric system up to code. Mr. Pagliarini commented that the photographs presented today are cause for embarrassment on the part of the State of Rhode Island. Mr. Mendes explained that the Water Resources Board has addressed and is working to attend to each of the issues discussed today. Mr. Mendes stated that the terms and conditions of the Lease Agreement before the Committee today require the landlord to make the necessary repairs. Upon the Board's receipt of the tenant's approval, it immediately began making the necessary updates and repairs. Mr. Kay asked if the insurance coverage was appropriate and adequate given the extenuating circumstances involving the condition of the building and its current use. Mr. Mendes stated that he would see to it that the insurance coverage is appropriate and adequate. A motion was made to deny approval of the Lease Agreement by Mr. Pagliarini as he does not believe the building is suitable to be leased at this time. Chairman Flynn asked for a second to the motion to deny approval of the Lease Agreement. There being no second to the motion to deny, said motion failed. After a detailed discussion regarding insurance coverage, the repairs necessary to ensure the structure is safe and in compliance with current State Building Code, a motion was made to

approve subject to the requirement that the State of Rhode Island be named as an additional insured on the tenant's insurance policy, that the boiler be replaced and that the electrical system be upgraded to comply with the current code by Mr. Woolley and seconded by Mr. Ryan. Said motion passed three (3) votes "Aye" to two (2) votes "Nay."

Three (3) Votes "Aye"

Mr. Ryan

Mr. Woolley

Chairman Flynn

Two (2) Votes "Nay"

Mr. Pagliarini

Mr. Kay

Under discussion, Mr. Pagliarini clarified that he voted "nay" because: (1) he is not comfortable that the facility is suitable to be leased based upon the photographs presented by Mr. Andolfo; (2) he does not believe it is prudent for the Water Resources Board to continue to expend money to repair this building; and (3) with all due respect to Mr. Andolfo and his appraisal, as the subject property includes three quarters ($\frac{3}{4}$) of an acre of land, Mr. Pagliarini doubts that the property should be leased even as a vacant lot for the appraised rental fee amount. However, not only does the tenant

benefit from the land, she benefits from the existing structure and the fact that it is being utilized to operate a childcare facility. Lastly, Mr. Pagliarini indicated that every school in the Town of West Greenwich is located along Nooseneck Hill Road; therefore, he certainly does not view the subject property's location as a negative, in fact, he considers its location an asset as the property is the closest drop-off point for every parent with an older child attending the elementary school. Mr. Pagliarini stated that this location is what the residents of rural West Greenwich want; they do not want to travel along Route 95 past two additional exits to reach the third exit for the Centre of New England. Mr. Pagliarini indicated he voted against the motion to approve the Lease Agreement because he does not feel the transaction is in the best interest of the State of Rhode Island.

ITEM C – Department of Environmental Management – A request was made for approval of and signatures on a License Agreement by and between the Department of Environmental Management and the Rhode Island Abenaki Council to allow the Council to hold its annual Pow-Wow on the grounds of Colt State Park in Bristol on Saturday, August 23, 2008, and Sunday August 24, 2008. Mr. Faltus explained that this is an annual request, which has previously been approved by the State Properties Committee for the past nine (9) years. The Rhode Island Abenaki Council has consistently had the support of the Rhode Island Heritage and Preservation Commission, which provides the insurance coverage for this event. Mr. Faltus indicated that the Department of Environmental Management recently received the Certificate of Insurance for this year's event. Mr. Faltus

expressed his concerns regarding certain language, which appears on the Certificate of Insurance. Said language indicates that the insurance contract has been placed with an insurer that is not licensed to do business in the State of Rhode Island, but is being provided through a surplus-line insurer known as Nautilus Insurance Company. Mr. Faltus explained that he consulted the Rhode Island Department of Business Regulation's website and verified that Nautilus Insurance Company is listed as a surplus-line insurance provider. Mr. Faltus indicated that he is unsure whether said language is cause for concern; however, he wished to make the Committee fully aware that he is not familiar with said language and that he is seeking guidance from the State Properties Committee as to whether it deems said insurance coverage appropriate in terms of protecting the State of Rhode Island against undue liability exposure. The Committee discussed the language included on the Certificate of Insurance and deferred to both Mr. Woolley and Mr. Kay for their opinions regarding the potential for liability exposure to the State of Rhode Island. Mr. Kay indicated that he is comfortable with the appropriateness of the insurance coverage. Mr. Kay stated that he is very familiar with the use of surplus-line insurers and assured the Committee that the State of Rhode Island is protected to the same extent as if the insurer were licensed in the State of Rhode Island. After discussing the appropriateness of the insurance coverage at length, out of an abundance of caution, a motion was made to approve the License Agreement subject to the Department of Attorney General's review and approval of the insurance coverage

policy by Mr. Pagliarini and seconded by Mr. Woolley.

Passed Unanimously

ITEM D – Department of Environmental Management – A request was made for approval of and signatures on a Deed of Conservation Easement by and between The Nature Conservancy and the Department of Environmental Management over 1,033 acres of land located in the Towns of and the West Greenwich and Coventry; known as the Shepard/Glen Avon Properties. Ms. Primiano explained that this is the third and final time this item will come before the State Property Committee. Ms. Primiano reminded the Committee that the Department of Environmental Management closed on the Cioe and Bates Properties and obtained easements over each of those properties. Ms. Primiano indicated that the subject property was funded by a number of federal agencies; one of which was more difficult to deal with than the others; therefore, the Department of Environmental Management had to work through some issues in terms of the conservation easement language, which was somewhat unusual. However, the Department of Environmental Management has finally obtained approval from all of the federal agencies relative to the actual easement language and is now ready to close on the Shepard/Glen Avon Properties. Ms. Primiano indicated that this is the culmination of nearly two years of work with the Town of West Greenwich, which contributed \$8 million dollars toward this acquisition, The Nature Conservancy, the State of Rhode Island, The United States Forest Service, the United States Fish and Wildlife Service and the Federal Highway Administration, through an earmark

program. The Department of Environmental Management has now obtained 20,000 acres of land located in the western portion of the State of Rhode Island. A motion to approve was made by Mr. Pagliarini and seconded by Mr. Woolley.

Passed Unanimously

ITEM E – Department of Environmental Management – A request was made for approval of and signatures on a License Agreement by and between the Department of Environmental Management and the Town of Johnston for use of property located at Snake Den State Park for purposes of safety training and preliminary site work by the Town of Johnston and the Town of Johnston Fire Academy. Ms. Primiano explained that in April 2008, the State Properties Committee granted the Department of Environmental Management’s request for conceptual approval to proceed with the transfer of the care, control and preservation of approximately one (1) acre of State-owned property to the Town of Johnston for the construction of a fire station and the development of public recreation facilities at Snake Den Park in the Town of Johnston. Ms. Primiano indicated that at this time, the Town of Johnston would like to begin site work. The Town of Johnston wishes to conduct training in the structure located on the subject property and subsequently board up the structure to prevent vandalism. The Department of Environmental Management is more than happy to enter into this short term License Agreement with the Town of Johnston, which will later be replaced by a long term Lease Agreement. Ms. Primiano stated that the Department of Environmental Management and the Town of Johnston are working

on the final proposal, but the Department has not yet seen the final plans for the fire station. Ms. Primiano indicated that the Department has received some preliminary information from the Town; however, upon its receipt of the final proposal illustrating the exact location of the fire station and public amenities to be provided by the Town of Johnston, the Department will return to the State Properties Committee to present said proposal to the Committee for its consideration. Chairman Flynn asked when the Department believes the final proposal will be completed. Ms. Primiano indicated that the Department of Environmental Management is affording the Town twelve months to complete the final proposal; however, the Department anticipates it will be completed much sooner. Mr. Ryan asked what type of structure is located on the property. Ms. Primiano indicated that it is a single-family house. Mr. Ryan asked if the Town is requesting access for purposes of engineering and architectural work. Ms. Primiano indicated that the Town is requesting access to conduct a site survey in order to design the fire station and the entrance to the facility. Chairman Flynn asked if the single-family home will be demolished. Ms. Primiano indicated that the structure will be demolished. A motion was made for approval by Mr. Pagliarini and seconded by Mr. Ryan.

Passed Unanimously

There being no further business to come before the State Properties Committee, the meeting was adjourned at 10:45 a.m. A motion was made to adjourn by Mr. Kay and seconded by Mr. Pagliarini.

Passed Unanimously

Holly H. Rhodes, Executive Secretary